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IN THE SUPREME COURT

STATE OF ARIZONA

In the matter of:)	
)	
PETITION TO AMEND RULE 2.1,)	
ARIZONA RULES OF CRIMINAL)	Supreme Court No. R-20__
PROCEDURE AND RULE 3,)	(expedited consideration
RULES OF COURT PROCEDURE FOR)	requested)
CIVIL TRAFFIC AND CIVIL)	
BOATING VIOLATIONS)	
_____)	

Pursuant to Rule 28, Rules of the Supreme Court, Petitioner requests the Court to amend Rule 2.1 (“Commencement of Criminal Proceedings: Misdemeanors”) of the Rules of Criminal Procedure, and Rule 3 (“Commencing a Violation in Court”) of the Rules of Court Procedure for Civil Traffic and Civil Boating Violations. These amendments pertain to the enactment of HB 2230 (Laws 2020, Ch. 16). Petitioner requests the Court’s expedited adoption of this petition, and expedited adoption of the proposed amendments to coincide with the December 31, 2020 effective date of this legislation.

(1) HB 2230. HB 2230 amended A.R.S. § 22-301 (“Jurisdiction of criminal actions”). The introductory language of this statute, which was not changed by HB 2230, prescribes the jurisdiction of justice courts, and accordingly, this new law will not affect municipal courts. The legislation included some stylistic revisions to A.R.S. § 22-301, and a substantive change. That substantive change added a new subpart (D). The new subpart provides,

If a uniform traffic ticket and complaint is filed in the incorrect precinct and that precinct is on the boundary of the precinct where the offense occurred, the case may be transferred to the correct precinct if both precincts are in the same county. This subsection does not affect the applicability of section 13-109.¹

This session law has an effective date of December 31, 2020.

(2) Need for Rule Amendments. There are certain procedural aspects that this legislation does not address, such as who may initiate a transfer to the correct precinct, how the transfer is initiated, and a time limit within which the transfer must occur. The proposed rules fill these gaps.

Also, because the uniform traffic ticket and complaint (also known as the “Arizona Traffic Ticket and Complaint,” or “ATTC”) can be used for criminal misdemeanors as well as civil traffic violations, Petitioner proposes two rule amendments, one for the Criminal Rules, to address misdemeanor complaints, and

¹ A.R.S. § 13-109 is titled “place of trial.”

the other for the Rules for Civil Traffic and Civil Boating Cases, which concerns civil traffic and boating violations.

(3) Criminal Rules Amendment. Petitioner believes that requests to transfer under this new legislation should be made as soon as possible after the filing of an ATTC in an incorrect justice court precinct. Accordingly, Petitioner proposes locating the criminal provision near the beginning of the Criminal Rules, within Rule 2, which is titled “Commencement of Criminal Proceedings,” and specifically, in Rule 2.1 titled “Misdemeanors.”

There are currently two sections in Criminal Rule 2.1: section (a), “Limited Jurisdiction Courts,” and section (b), “Superior Court.” Petitioner proposes adding a new section (c) with the title, “Filing a Motion to Transfer to the Correct Precinct.” The proposed provision includes a reference to A.R.S. § 22-301 and addresses the gaps mentioned above. Who may initiate a transfer? The proposed rule would allow a party or the court to do so. How would the transfer be initiated? The proposed rule would require a party to file a motion or permit the court to order a transfer *sua sponte*. What is the time limit? The proposed rule would require action by a party or the court no later than 30 days after arraignment.

(4) Civil Traffic and Civil Boating Cases Amendment. The proposed amendment here is like the proposed Criminal Rule Amendment. Current Civil Traffic and Civil Boating Rule 3 is titled “Commencing a Violation in Court.”

Section (a) of this rule concerns “commencing a civil traffic or civil boating case,” while section (b) concerns “commencing a parking or standing case.” Petitioner proposes a new section (c) with the title “Filing a Motion to Transfer to the Correct Precinct.” This section would allow a party to file a motion to transfer a case to the correct precinct or allow the court to *sua sponte* order such a transfer. The proposed rule sets the time limit for either action as “no later than 20 days after service of the complaint,” which Petitioner believes is reasonable considering the shortened time frames for completing civil traffic and boating proceedings.

(5) Pre-filing Vetting. Petitioner circulated the proposed rule for comment to members of the Committee on Limited Jurisdiction Courts. Petitioner received one comment, which noted that a judicial officer might not review the citation before the defendant’s first court appearance. The comment therefore suggested that the proposed rules use the first court appearance as the starting point for calculating the time for filing a motion or ordering a *sua sponte* transfer. However, the proposed Criminal Rule already includes a court event (the arraignment) as the measuring event. The first court appearance for a civil traffic violation might be close to the date of trial, and a transfer at that stage of the proceeding could result in delay. Accordingly, Petitioner kept the time for a traffic case at 20 days after service of the complaint.

(6) Conclusion. Petitioner requests that the Court adopt amendments to these two rules as shown in the Appendix. As permitted by Supreme Court Rule 28(h), Petitioner asks the Court to adopt these amendments on an expedited basis with a comment period to follow, and prescribe an effective date of December 31, 2020, concurrently with the effective date of the statutory amendments.

RESPECTFULLY SUBMITTED this 14th day of July 2020.

By: /S/_____
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Appendix

(Added text is underlined)

- **Arizona Rules of Criminal Procedure**

Rule 2.1. Misdemeanors

(a) Limited Jurisdiction Courts. The State may commence misdemeanor and petty offense actions triable in limited jurisdiction courts by filing with the court:

- (1) an Arizona Traffic Ticket and Complaint;
- (2) any complaint form approved by the Arizona Supreme Court; or
- (3) a complaint under Rule 2.3.

(b) Superior Court. The State may commence a misdemeanor action by filing an indictment or information directly in the superior court. A prosecutor also may commence a misdemeanor action not otherwise triable in the superior court by filing a complaint in the Justice Court under Rule 2.2(b) and then following the procedures applicable in felony cases.

(c) Filing a Motion to Transfer to the Correct Precinct. A party may file a motion to transfer a case to the correct precinct pursuant to A.R.S. § 22-301 or the court sua sponte can transfer the case. A motion to transfer a case to the correct precinct must be filed, or the court may order a sua sponte transfer, no later than 30 days after arraignment.

- **Rules of Court Procedure for Civil Traffic and Civil Boating Violations**

Rule 3. Commencing a Violation in Court

(a) Commencing a Civil Traffic or Civil Boating Case. A civil traffic or civil boating case is commenced by filing with the court an Arizona Traffic Ticket and Complaint in accordance with Article 4, Chapter 5, Title 28, Arizona Revised Statutes (entitled “Procedures for Civil Traffic Violations”) or by filing a long-form complaint pursuant to Arizona Rules of Criminal Procedure, Rule 2.3.

(b) Commencing a Parking or Standing Case. A parking or standing case is commenced by filing with the court an Arizona Traffic Ticket and Complaint, or a notice of violation for a local ordinance, charter, or regulation in accordance with Article 4, Chapter 5, Title 28, Arizona Revised Statutes entitled “procedures for civil traffic violations.” Vehicle parking and standing offenses do not require that the initial notification or a subsequent summons and complaint be personally served. If it becomes necessary to issue a summons and complaint because there is not a satisfactory response to the initial notice of a parking or standing violation, a summons and complaint may be sent by regular mail to the address provided to the Department of Motor Vehicles by the individual made responsible for the alleged violation. Service of a summons and complaint is complete on mailing.

(c) Filing a Motion to Transfer to the Correct Precinct. A party may file a motion to transfer a case to the correct precinct pursuant to A.R.S. § 22-301 or the court *sua sponte* can transfer the case. A motion to transfer a case to the correct precinct must be filed, or the court may order a *sua sponte* transfer, no later than 20 days after service of the complaint.